

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0068/1dn
ARG:jld:jf

June 3, 2013

Please review the attached substitute amendment carefully to ensure that it is consistent with your intent.

Under current law, the term “full purchase price” is used without definition. I therefore do not believe it is necessary to provide a definition in this draft. I note, however, that current law affords a consumer who elects a refund with additional items of recovery beyond the full purchase price minus a reasonable allowance for use. Under s. 218.0171 (2) (b) 2. b., the manufacturer must refund “the full purchase price plus any sales tax, finance charge, amount paid by the consumer at the point of sale and collateral costs, less a reasonable allowance for use.” In this substitute amendment, it is unclear whether a manufacturer that provides a refund when a comparable new motor vehicle is requested must also include these additional cost items with the full purchase price.

The provision in this draft eliminating jury trials in lemon law cases might be subject to challenge as unconstitutional. See Art. I, sec. 5, of the Wisconsin Constitution (“The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy ...”).

With regard to the DOT form to be used by a consumer, I have retained the provisions in AB-200/SB-182 that create a rule-making exception for the form, although the instructions state that DOT would have rule-making authority. The entire substitute amendment hinges on this form. After 2011 Wisconsin Act 21, the rule-making process is lengthy (possibly years long) and unpredictable and can be easily thwarted by the executive branch. For this reason, I have kept the rule-making exemption, but if you prefer the draft could provide for emergency rule-making and numerous rule-making exceptions instead.

Under current law, the lemon law does not apply to vehicle combinations such as truck-trailer or truck-semitrailer combinations. I have assumed that you do not want to expand the lemon law to apply to vehicle combinations and have therefore modified the proposed definition of “heavy-duty vehicle” accordingly.

Please let me know if you would like any changes made to the attached substitute amendment or if you have any questions.

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